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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,830	01/05/2004	Kei Yasuda	2003_1926A	4067
513 7590 07/23/2009 WENDEROTH, LIND & PONACK, L.L.P. 1030 15th Street, N.W., Suite 400 East Washington, DC 20005-1503				
EXAMINER MONIKANG, GEORGE C				
ART UNIT		PAPER NUMBER		
2614				
MAIL DATE		DELIVERY MODE		
07/23/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/750,830

**Applicant(s)**

YASUDA ET AL.

**Examiner**

GEORGE C. MONIKANG

**Art Unit**

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 April 2009.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-38 is/are pending in the application.  
4a) Of the above claim(s) 1-32 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 33-38 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☒ Certified copies of the priority documents have been received in Application No. 10/750,830.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO/SI/88)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 33-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Berstis et al, US Patent 6650894 B1.

Re Claim 33, Berstis et al discloses a control server for controlling a first apparatus and a second apparatus, both of the first apparatus and the second apparatus providing output of the same type (col. 8, line 65 through col. 9, line 11: *electronic device 60 and 66 are both phone/pagers type devices and have the same type output*), said control server comprising: a communication unit configured to receive, from the first apparatus, a notification signal indicating a state of an output of the first apparatus when the output of the first apparatus changes (col. 8, line 65 through col. 9, line 11: *the output of electronic device 60 (first apparatus) is detected by a communication unit within electronic device 66, thus creating change in the output of electronic device 66, wherein the communication unit within electronic device 66 would detect changes in the electronic device 60 such as volume increase and power on/off before changing its output and wherein the communication unit within electronic device 66 can only detect the output of electronic device 60 only when the devices are within a certain distance of each other (i.e. same room)*); and an operating unit configured to (i) determine, upon the communication unit receiving the notification signal from the first apparatus, whether or not to change an output of the second apparatus, according to a distance between the first apparatus and the second apparatus (col. 7, lines 29-39: *distances between electronic devices controls their output; col. 8, line 65 through col. 9, line 11: the output of electronic device 66 changes when electronic device 60 is detected within the same room (a giving distance)*), and (ii) change the output of the

second apparatus according to the state of the output of the first apparatus indicated by the notification signal, when said operating unit determines to change the output of the second apparatus (col. 8, line 65 through col. 9, line 11: the output of electronic device 66 changes when electronic device 60 is detected within the same room (a giving distance))).

Re Claim 34, Berstis et al discloses the control server according to claim 33, wherein said operating unit determines to change the output of the second apparatus when the distance between the first apparatus and the second apparatus is less than a predetermined value (col. 7, lines 29-39: distances between electronic devices controls their output: if electronic device 60 is not within a certain distance/range of electronic device 66, their respective outputs will not affect each other).

Re Claim 35, Berstis et al discloses the control server according to claim 33, wherein the notification signal includes information indicating a change of a sound level of the first apparatus, or information indicating a state of power of the first apparatus, and said control server decreases the sound level of the second apparatus or turns off the second apparatus when the sound level of the first apparatus increases or the first apparatus turns on (col. 8, line 65 through col. 9, line 11: the output of electronic device 60 is determine before comparing with the output of electronic device 66, therefore if the electronic device 60 is turned off, it will not affect the output of electronic device of 66)).

Claim 36 has been analyzed and rejected according to Claim 35.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 37-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berstis et al, US Patent 6650894 B1.

Re Claim 37, Berstis et al discloses the control server according to claim 33, wherein the notification signal includes information indicating a change of a sound level of the first apparatus, or information indicating a state of power of the first apparatus, and said control server increases the sound level of the second apparatus or turns on the second apparatus but fails to explicitly disclose the above conditions being met when the sound level of the first apparatus decreases or the first apparatus turns off. However, since the portable computer device 62 (first device) is detected within a range of mobile phone 64 (second device), the audio of the mobile phone 64 is increased (col. 8, lines 33-50: one conditional setting a user could include is that whenever portable computer device 62 (first device) is detected within a range of mobile phone 64 (second device), the audio of the mobile phone 64 is increased), it would have been the designer's preference to include in one of the user conditions of Berstis et al, that the audio of the mobile phone 64 is increased while the volume of the portable computer system 62 is decreased or temporary turned off so that the system could be more efficient and dynamic by creating less sound conflicts.

Claim 38 has been analyzed and rejected according to Claim 37.

**Contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GEORGE C. MONIKANG whose telephone number is (571)270-1190. The examiner can normally be reached on M-F, alt Fri. Off 7:30am-5:00pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George C Monikang/  
Examiner, Art Unit 2614

7/8/2009

/Vivian Chin/  
Supervisory Patent Examiner, Art Unit 2614

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